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7
8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF WASHINGTON

10 MICHAEL F. BISSON,

11 Plaintiff,

12 vs.

13 UNITED STATES OF AMERICA,

14 Defendant.

Case No.

COMPLAINT FOR
DAMAGES

15 **JURISDICTION AND VENUE**

16 1. As more fully explained below, this action involves a tort claim
17 asserted against the defendant United States of America pursuant to the Federal
18 Tort Claims Act. This court has subject matter jurisdiction of the action
19 pursuant to 28 U.S.C. §1346(b).

20 2. This court has supplemental jurisdiction over all other claims in
21 this action under 28 U.S.C. §1367(a) because those claims are directly related to
22 the claim asserted against the defendant United States of America and they form
23 part of the case or controversy under Article III of the United States
Constitution.

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1 3. The acts and omissions upon which the tort claims occurred within
2 the Eastern District of Washington and venue is proper in this District pursuant
3 to 28 U.S.C. §1391(e).

4 **PARTIES**

5 4. At all material times, plaintiff Michael F. Bisson was an adult
6 residing in Kootenai County, Idaho.

7 5. At all material times, defendant United States of America was a
8 sovereign nation.

9 6. At all material times the Kalispel Tribe of Indians was a sovereign
10 nation.

11 7. At all material times the United States of America had supervisory
12 authority over the Kalispel Tribe's law enforcement activities and personnel
13 pursuant to a contract under the Indian Self-Determination and Education
14 Assistance Act, 25 U.S.C. Chapter 46.

15 **ADMINISTRATIVE CLAIMS**

16 8. On March 27, 2020 plaintiff Michael Bisson timely and properly
17 submitted a Standard Form 95 to the Department of the Interior pursuant to 28
18 U.S.C. §§2671-80. The claim was received by the Department of the Interior on
19 March 30, 2020 and forwarded by the Department to the Office of the Solicitor
20 for processing. The claim was assigned case number TPB-20-0314.

21 9. The claim was denied by the United States Department of Interior
22 by letter dated October 20, 2020. The denial was subject to a request for
23

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1 reconsideration within six months of the date of the letter. Plaintiff Michael F.
2 Bisson sought reconsideration on April 27, 2021.

3 10. The United States Department of Interior denied reconsideration
4 and rejected plaintiff Michael Bisson's claims by letter dated November 17,
5 2021.
6

7 **FACTS**

8 11. On July 16, 2019 at approximately 0655 Jesse Aston was driving a
9 2012 Dodge Charger owned by the Kalispel Tribe of Indians. He was traveling
10 Westbound on I90 near milepost 285.8. Jesse Aston is believed to be a Kalispel
11 Tribal Police Officer and on duty at that time. Michael Bisson was ahead and in
12 the same lane as Jesse Aston. Michael Bisson slowed down due to traffic
13 congestion along with other surrounding vehicles and came to a stop. Jesse
14 Aston failed to apply his brakes and smashed into the rear of Mr. Bisson's
15 vehicle. The force of the collision also pushed Mr. Bisson into the vehicle in
16 front of him. The third vehicle struck the car in front of it. All four vehicles
17 sustained extensive damage.
18
19

20 12. Mr. Bisson suffered serious physical injuries for which he is
21 receiving medical treatment to the present date and into the future. His injuries
22 are most likely permanent, and he will suffer progressing disability into the
23

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1 future. This will require increasingly invasive medical treatment including back
2 surgery.

3 **CAUSE OF ACTION**
4 **(Negligence/Gross Negligence)**

5 13. Plaintiff re-alleges and incorporates by reference Paragraphs 1
6 through 12 above as though fully set forth herein.

7 14. At all times material hereto, Officer Jesse Astin was driving a
8 vehicle owned by the Kalispel Tribe of Indians. He was acting in the service
9 and employ as a law enforcement officer for the Kalispel Tribal Police. He was
10 acting within the scope of his employment. Defendant United States of
11 America had direct supervisory authority over Officer Jesse Astin pursuant to a
12 contract with the Kalispel Tribe of Indians under the Indian Self-Determination
13 and Education Assistance Act, 25 U.S.C. Chapter 46
14
15

16 15. Officer Jesse Aston owed a duty to Michael Bisson to not follow
17 Michael Bisson's vehicle more closely than was reasonable and prudent having
18 due regard for the speed of such vehicles and the traffic upon and the condition
19 of the highway.

20 16. Officer Jesse Aston owed a duty to Michael Bisson to drive his
21 vehicle at a speed not greater than was reasonable and prudent under the
22 conditions and having regard to the actual and potential hazards then existing.

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1 26. Special economic damages for reasonable and necessary medical
2 expenses incurred by the Plaintiff since July 16, 2019 and into the future;

3 27. Special economic damages for lost wages, past, present and
4 future, incurred since July 16, 2019, by the Plaintiff because of his inability to
5 work and pursue his usual job and/or occupation, and for the time he has taken
6 off work for medical treatment;

7 28. All of the special economic damages are for a sum certain, and
8 readily ascertainable, and the Plaintiff is entitled to prejudgment interest on
9 those special damages.
10

11
12 **RELIEF REQUESTED**

13 **WHEREFORE**, Plaintiff demands that the Court enter judgment against
14 the defendant United States of America as follows:

15 1. For a judgment of liability against Defendant and for an award of
16 damages as set forth in the complaint herein;

17 2. For prejudgment interest, all costs of suit incurred herein, and for
18 statutory and reasonable attorney's fees as may be awarded by the Court;

19 3. For interest on the judgment herein at the highest statutory rate;
20
21 and
22


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1 4. For such other and further relief as the Court deems just and
2 equitable.
3

4
5 DATED this 6th day of May, 2022.

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8 Robert M. Seines, WSBA No. 16046
9 Attorney for Michael F. Bisson
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